

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**TOO MARKER PRODUCTS, INC. a
Japanese corporation, and
IMAGINATION INTERNATIONAL,
INC., an Oregon corporation,**

Plaintiffs,

v.

**SHINHAN ART MATERIALS, INC., a
Korean corporation, SHINHAN USA,
C2F, INC., an Oregon corporation, and
BONGKEUN HAN, an individual,**

Defendants.

No. CV 09-1013-PK

OPINION AND ORDER

MOSMAN, J.,

On October 1, 2010, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#131) in the above-captioned case recommending that I deny defendant's Motion for Summary Judgment (#49), plaintiff's Motion to Strike (#78), and plaintiff's Cross Motion for Partial Summary Judgment (#81). Defendants filed objections (#137) and plaintiffs responded (#139).

STANDARD OF REVIEW

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to

make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I ADOPT Judge Papak's F&R (#131) as my own and I DENY defendant's Motion for Summary Judgment (#49), plaintiff's Motion to Strike (#78), and plaintiff's Cross Motion for Partial Summary Judgment (#81).

IT IS SO ORDERED.

DATED this 17th day of November, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court